

# **CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE**

## **Minutes**

**January 18, 2006**

The Capital Projects and Bond Oversight Committee met on Wednesday, January 18, 2006, at 8:30 AM, in Room 125 of the Capitol Annex. Senator Elizabeth Tori, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Elizabeth Tori, Co-Chair; Representative Mike Denham, Co-Chair; Senator Jerry Rhoads; and Representatives Robert Damron, and Paul Marcotte.

Guests testifying before the Committee: Senator Jack Westwood; Bob Wiseman and Tom Codell, University of Kentucky; John Hicks, Governor's Office for Policy and Management; Jim Abbott and Steve Biven, Finance and Administration Cabinet; Katie Smith, Cabinet for Economic Development; Sandy Williams, Kentucky Infrastructure Authority; and Nora Marshall and Terri Fugate, Office of Financial Management.

LRC Staff: Mary Lynn Collins, Pat Ingram, Nancy Osborne, Kristi Culpepper, Bart Hardin, and Shawn Bowen.

Representative Damron made a motion to approve the minutes of the December 13, 2005 meeting. The motion was seconded by Representative Denham and passed by unanimous voice vote.

Senator Tori called on Ms. Mary Lynn Collins, Committee Staff Administrator, to review correspondence items. Ms. Collins said members' folders included seven items of correspondence: Committee correspondence to the Council on Postsecondary Education (CPE) regarding a University of Kentucky (UK) emergency lease modification project (Hospital Finance) reviewed by the Committee at its December meeting, and a response from CPE President Tom Layzell; correspondence from UK in response to questions raised by the Committee at its December 2005 meeting regarding the UK Hospital Finance lease; follow-up information concerning questions raised at last month's meeting relating to a school bond issue with School Facilities Construction Commission participation; correspondence from the Cabinet for Economic Development, Department of Commercialization and Innovation, reporting a grant from the High Tech Investment Pool to Dataseam, Inc.; quarterly status reports from the Finance and Administration Cabinet, Murray State University, University of Kentucky, University of Louisville, Western Kentucky University, and the Administrative Office of the Courts; and the Kentucky Lottery Corporation's monthly financial report for November 2005.

Ms. Collins said three information items were also included in members folders: a staff update on various capital projects; proposed legislation relating to the jurisdiction of the Capital Projects and Bond Oversight Committee; and a staff memorandum relating to interest rate swaps prepared by LRC staff economist Kristi Culpepper.

Senator Tori called on Senator Jack Westwood, Co-Chair of the Capital Planning Advisory Board, to present the Board's recently completed *2006-2012 Statewide Capital Improvements Plan*.

Senator Westwood said he appreciated the Committee's invitation to make a presentation today on the *2006-2012 Statewide Capital Improvements Plan*. He said former Representative Perry Clark served as co-chair of the Board for several years, including during the most recent planning process, and he appreciated all his hard work.

Senator Westwood said actual development of the plan occurs over a six-month time period. It began with the agency plan submissions in mid-April of last year and concluded with the Board giving final approval to the statewide plan in late October. The agency plans are to include all projects proposed by the agency for the upcoming six years, beginning with the upcoming biennium. He said such projects include new construction and major renovation or maintenance, equipment and information technology systems, and grant and loan programs that are authorized in the capital budget, and court projects.

Senator Westwood said approximately 2,000 projects were submitted by the agencies of all three branches of government for the six-year period. The total estimated cost of the projects, from all fund sources, was over \$13 billion, and over half of this is at the postsecondary institutions.

Senator Westwood said a major focus of the statewide plan is adequate maintenance of existing facilities. He said this year the Board's plan includes nine Policy Recommendations. The first calls for legislation to establish a systematic approach for financing capital renewal and maintenance of state facilities. The second policy recommendation calls for adequate and appropriate funding for the agency maintenance pools that are used for minor projects. Senator Westwood said this recommendation calls for development of a formula that would determine the amount of each agency's maintenance pool based on factors such as square footage, age, and condition of facilities.

Senator Westwood said the Board has developed two new recommendations for legislation that he hoped the Committee would support. The Board is calling for statutory changes to increase the thresholds which require projects to be submitted in the capital planning and budgeting processes. Specifically, the recommendation is to increase the threshold for construction projects and information technology systems from the current

\$400,000 to \$600,000. The threshold for equipment items would also be increased from \$100,000 to \$200,000. He said these thresholds were initially set in 1979 and adjusted in 1994, and the Board believes this is an appropriate time to update them again.

Senator Westwood said the Board is also recommending that there be a review of Kentucky's debt issuance processes, and approaches to debt capacity. He said there have been numerous changes in the nature and use of state debt in recent years, and it is time to get the relevant players from both branches together for a coordinated, comprehensive review of state debt-related issues.

Senator Westwood said three of the other policy recommendations re-iterate recommendations made in previous plans. Those are the need for the Finance and Administration Cabinet to continue implementing the Real Properties/Facilities Management Database that will provide better information about state facilities; the need to replenish the Budget Reserve Trust Fund, and the need to provide alternatives to incarceration. He said this last item may seem like an unusual recommendation to be in a capital projects report, but over the years, the Board has consistently reviewed proposals for additional construction to address prison population growth. He said the Board has concluded that the state cannot build its way out of this problem. In this year's plan, the Board is recommending funding for treatment and other programs that have documented savings as alternatives to incarceration.

Senator Westwood said as in past years, the Board is recommending a list of projects that should be financed from state General Fund cash or bonds, and a separate recommendation on projects that would be financed 100% from other sources such as agency, federal, or private funds.

Senator Westwood said the recommendation concerning projects to be financed from state funds addresses three categories of projects: protecting investment in plant, information technology, and new construction. In the category of protecting investment in plant, otherwise known as maintenance, the Board is recommending that appropriations for the agency maintenance pools be from a source (cash rather than bond proceeds) which will allow them to be used for minor projects. He said in the maintenance category, the Board is also recommending funding for a postsecondary education matching funds pool for maintenance, funding for the statutory contingency and emergency funds, and funding for the state-owned dam repair program.

Senator Westwood said the Board also believes it is important to provide the remaining amount needed to complete the renovation of the old state office building here in Frankfort. He said this building, which was vacated by the Transportation Cabinet, will be used to house state employees so the state can reduce the amount of space leased from private vendors.

Senator Westwood said besides facilities, the state has made a significant and increasing capital investment in information technology in recent years. Many of those systems are in need of maintenance, upgrade or replacement to continue serving the citizens, and as such, the Board is recommending specific information technology projects.

Senator Westwood said the Board worked very hard to develop this plan. He said he hoped the Committee will give these recommendations careful consideration during the upcoming session and budget process.

Representative Marcotte asked if the Board has compared the list of recommendations for new construction with what is recommended in the Judicial and Executive Branch budgets. Senator Westwood said the Board anticipates doing this, but it has not been done yet.

Representative Denham asked how feasible it was to renovate the old State Office building vacated by the Transportation Cabinet. Senator Westwood said it is the state's intent to renovate this building. He said one of the big concerns the Board has is making sure buildings are constructed in such a way that they can be renovated and expanded since the goal is to reduce the state's dependence upon leased facilities by housing agencies in state-owned property.

Representative Denham said this Committee has been concerned about the structural condition of the state-owned dams. He asked how much money will be necessary to repair state-owned dams. Senator Westwood said the state dam program does have maintenance needs. Ms. Pat Ingram, Capital Planning Advisory Board Staff Administrator, said generally the Board does not specify funding levels for projects it recommends, but focuses on the need and priority for projects. She said the Board recommended that ongoing programs like the state-owned dam repair should be appropriately funded to address the identified needs. She noted a similar recommendation was made for the Contingency and Emergency Accounts.

Next, Mr. Bob Wiseman, Associate Vice President for Facilities, University of Kentucky, and Tom Codell, General Manager of WUKY, discussed an unbudgeted project for the University. Mr. Wiseman said he was appearing before the Committee to seek approval for authorization of an unbudgeted project to replace and relocate the antenna and transmitter for WUKY, the University's public radio station. He said the transmitter is located on a tower not owned by the University, and needs to be relocated. The total cost of the project is \$863,040, and the funding sources are \$317,084 in federal grant funds, \$150,000 from restricted funds, \$160,000 in private funds, and \$235,956 from further private fundraising efforts.

Senator Rhoads made a motion to approve the unbudgeted project for the University. The motion was seconded by Representative Damron and passed by unanimous roll call vote.

Senator Tori asked Mr. John Hicks, Acting Deputy State Budget Director, Governor's Office for Policy and Management, and Mr. Jim Abbott, Commissioner of Facilities and Support Services, Finance and Administration Cabinet, to present the Finance Cabinet's monthly report to the Committee. Mr. Hicks reported an allocation of \$96,772 from the Emergency Repair, Maintenance and Replacement Account for a structural repair project at the Glasgow State Nursing Facility in Barren County. He said during a small maintenance project involving tuckpointing of the brick in the Glasgow facility, it was discovered that concrete columns in one corner of the building were deteriorating, and would need to be repaired. The problem was significant enough to relocate some clients from that area of the building until the columns could be repaired.

Mr. Hicks said with the allocation from the Emergency Account, the scope of the project is now \$450,000, which exceeds the threshold for reporting a capital project to the Committee. Senator Tori said emergency projects must be reported to the Committee within 30 days, but no further action is required.

Next, Mr. Hicks reported an appropriation increase for the TWIST (The Workers Information System) Program administered by the Cabinet for Health and Family Services. The TWIST Rewrite project was authorized in the 2004-06 Budget at a scope of \$3,393,000 (\$2,205,000 state bonds and \$1,188,000 federal funds). Mr. Hicks said the Cabinet has obtained additional federal funding in the amount of \$1,016,600. The additional funds will be used to accelerate plans to convert the TWIST application to a web-based format. Mr. Hicks said the Governor's recommended budget includes a second phase of this project for the 2006-2008 budget, and the scope of the second phase was reduced by \$1 million because of the additional federal funds reported today.

In response to a question from Representative Damron, Mr. Hicks said the term of the bond funds proposed for the project in the Governor's recommended budget would be 10 years.

Representative Damron said when projects are bonded, they should be bonded under the useful life of the project. Mr. Hicks said he agreed that the term of the bond should be less than the life of the project it finances.

Senator Tori said since this program was initiated in 1994, there have been a lot of problems. She asked how many times this program had been updated or changed. Mr. Hicks said he did not know, but he would find out and let the Committee know.

Mr. Hicks said a number of their enterprise systems are moving to a web-based technology design, which is more reliable.

In response to another question from Senator Tori, Mr. Hicks said personnel will need to be trained to use the system, but the cost of training will be paid for with operating budget funds.

Mr. Hicks next discussed a \$27,617 scope increase for the Freedom Hall Floor Refrigeration/Dehumidification project at Freedom Hall. Mr. Hicks said in 1998 a refrigerated floor was installed in Freedom Hall. Subsequently, there were problems with the installation and operation of the floor, and a lawsuit was filed against the general contractor, Martin Construction. As a result of the suit, a settlement check of \$400,000 was received in December 2005. Mr. Hicks said the scope increase of \$27,617 is necessary to pay the final legal expenses associated with the suit, to pay final project invoices, and to reimburse the Fair Board for some of the costs it incurred associated with the problems.

Senator Tori asked if the settlement was sufficient to address the problems associated with the refrigerated floor. Mr. Abbott said there were costs associated with litigation and risks, and in weighing those costs and concerns, they felt that this was a fair and just settlement.

Representative Damron made a motion to approve the appropriation increase for the TWIST program and the scope increase for the Freedom Hall Floor Refrigeration/Dehumidification project. The motion was seconded by Senator Rhoads and passed by unanimous roll call vote.

The final item Mr. Hicks reported was a \$612,000 project for the Department of Fish and Wildlife Resources to be funded from the Fees-in Lieu of Stream Mitigation Projects Pool. The project, Terry's Branch in Knott County, will reconstruct a natural channel stream and restore the habitat in that stream. Senator Tori said no action was required on this project.

Mr. Steve Biven, Director, Division of Real Properties, presented two lease reports. Mr. Biven first reported a lease modification for the Department of Public Advocacy (PR-4015) in Kenton County. The Department plans to make renovations to its leased office space to accommodate three new staff. The cost of the renovations is \$9,842, and will be amortized over the remaining lease term. Senator Tori said no action was required on this project since the modification was under \$50,000.

Mr. Biven then presented a lease consolidation report for the Council on Postsecondary Education in Franklin County. He said the Council has two separate leases

in the same building. The leases will now be consolidated, at no additional cost, under one Council on Postsecondary Education lease at an annual cost of \$350,759.

Representative Damron made a motion to approve the lease consolidation for the Council on Postsecondary Education. The motion was seconded by Representative Marcotte and approved by unanimous roll call vote.

Senator Tori next asked Ms. Katie Smith, Deputy Commissioner for the Department for Financial Incentives, Cabinet for Economic Development, to report on a proposed Economic Development Bond (EDB) grant.

Ms. Smith reported a proposed grant of \$300,000 to the Pulaski County Fiscal Court to benefit UGN, Inc. The grant will be used to contribute to the company's renovation of a 292,000 SF facility at a cost of \$15.9 million.

Ms. Smith said the EDB grant agreement stipulates that UGN, Inc. will create 159 new full-time jobs for Kentucky residents within two years of occupancy of the facility, and the company will be required to pay the new employees an average wage of \$12.19 per hour. UGN, Inc. will also be required to maintain these jobs for an additional three years. If the company fails to meet these requirements, it must pay the Pulaski County Fiscal Court \$1,887 per job not created or maintained. Ms. Smith said the company has also received preliminary approval of \$5.6 million in tax credits under the Kentucky Industrial Development Act.

Senator Tori asked how many EDB grants companies in Pulaski County have received. Ms. Smith said she was not sure how many other EDB grants have been offered to the county, but she would find out and let the Committee know.

Representative Damron made a motion to approve the EDB grant. The motion was seconded by Representative Marcotte and approved by unanimous roll call vote.

Ms. Sandy Williams, Kentucky Infrastructure Authority (KIA), said members' folders included a report from KIA regarding 41 line-item Coal/Tobacco Development Grants approved in the 2004-06 budget. No further action was required on these projects.

The next report was provided by Ms. Nora Marshall, and Ms. Terri Fugate, Financial Analysts for the Office of Financial Management (OFM). Ms. Marshall said OFM submitted one new bond issue report to the Committee this month: Kentucky Asset/Liability Commission Project Notes, 2006 Road Fund Bond Anticipation Notes. Ms. Marshall explained that they had decided to provide permanent financing rather than interim financing for the unissued \$225 million in Road Funds authorized in the 2004-06 budget. She said the Turnpike Authority will now issue bonds in February with a five

month forward delivery to deposit the proceeds in July of 2006, and the issue is pending approval by the Kentucky Turnpike Authority.

Senator Tori asked why the change was made in structuring this bond issue. Ms. Fugate said they were trying to time the bond issue to when the Transportation Cabinet would need the funds. Initially, the Cabinet got off to a slow start in expending proceeds from an earlier issue, and OFM did not anticipate the need for financing so soon. However, a report received in December indicated expenditures have increased, and the Cabinet could run out of funds by July of this year.

Representative Damron said the money for these projects had not been released, and the local governments were very concerned about that. He asked if there are any arbitrage penalties on the earlier bonds issued by the Turnpike Authority if they do not spend these moneys by July. Ms. Fugate said not necessarily, but they are trying to work within that timeframe. She said 10% of the funds have to be spent within six months and 45% within twelve months.

In response to a question from Representative Damron, Ms. Fugate said she thought the Turnpike Authority will meet the timeframe.

Ms. Marshall next presented eight follow-up reports for previously approved bond issues: Kentucky Housing Corporation (KHC) Housing Revenue Bonds, 2005 Series I (Taxable) (Non-Callable), 2005 Series J (Non-AMT), 2005 Series K (AMT), and 2005 Series L (AMT) (Variable Rate), \$59,755,000; KHC Single Family Mortgage Revenue Bonds, Draw Down Series 2005, \$500,000,000; University of Kentucky General Receipts Bonds, 2005 Series A, dated December 13, 2005, \$7,160,000; Murray State University Housing and Dining System Revenue Bonds, Series Q, dated December 15, 2005, \$15,800,000; Kentucky Asset/Liability Commission (ALCo) Project Notes, 2005 Agency Fund Second Series consisting of 2005 Agency Fund Second Series A-1 and A-2, \$250,000,000,000; Kentucky Economic Development Finance Authority (KEDFA) Adjustable Rate Demand Hospital Facilities Revenue Bonds, Series 2005 (The Harrison Memorial Hospital, Inc. project), \$16,000,000; KEDFA Multifamily Housing Revenue Bonds, Series 2005, (GNMA Collateralized Christian Care Communities Projects), \$12,030,000; and KEDFA Variable Rate Demand Hospital Revenue Bonds, Series 2005B, (Baptist Healthcare System Obligated Group), Public Auction Reset Securities (PARS), Subseries 2005B-1 and Subseries 2005B-2, \$61,750,000. Senator Tori said these follow-up reports were for previously approved bond issues, and no further action was required.

Ms. Marshall next presented two new school bond issues with School Facilities Construction Commission (SFCC) debt service participation for Danville Independent (Boyle County) and Estill County.



Representative Denham made a motion to approve the two school bond issues. The motion was seconded by Representative Damron and passed by unanimous roll call vote.

Senator Tori said the debt issuance calendar was also included in members' folders. No action was required for this report.

With there being no further business, the meeting adjourned at 9:25 a.m.